

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WP-ASDB-LD-VC-1/20

WRIT PETITION (ST.) NO. OF 2020

Hind Kamgar Sanghatana through its President
Shantaram Kadam and others ... Petitioners
Vs.
State of Maharashtra and others ... Respondents

Ms. Gayatri Singh, Senior Advocate a/w. Ronita Bhattacharya for
Petitioners.

Mrs. R. A. Salunkhe, AGP for Respondent-State.

Mr. Shailesh Naidu a/w. Mr. Sairam Chandanani, Ms. Minal Chandanani
and Mr. Ashish Gupta i/b. Lexim Asso. for Respondent No.7.

**CORAM : UJJAL BHUYAN &
N. R. BORKAR, JJ.**

Reserved on : JULY 16, 2020

Pronounced on : AUGUST 19, 2020

P.C. :

Heard Ms. Gayatri Singh, learned Senior Counsel for the
petitioners; Ms. Salunkhe, learned AGP for respondent Nos.1 to 6-State;
and Mr. Shailesh Naidu, learned counsel for respondent No.7.

2. First petitioner is a trade union claiming to represent 150 workers
of M/s. India Steel Limited, respondent No.7. Petitioner Nos.2 and 3 are
workers of respondent No.7 who are also members of petitioner No.1.

3. This petition has been filed under Article 226 of the Constitution
of India whereby and whereunder petitioners seek a direction to
respondent Nos.3 and 4 to ensure that workers of respondent No.7 are
paid full wages from December 2019 onwards. Petitioners also seek a
direction to respondent Nos.3 and 4 to ensure that respondent No.7 takes
all necessary measures for safety of its workers in its industrial plant at
Khopoli in the district of Raigad and also to make suitable arrangement

for transportation of the workers in view of restrictions imposed by the state to combat COVID-19 pandemic. Further prayer made is for a direction to respondent Nos.3 and 4 to initiate appropriate proceedings under the Disaster Management Act, 2005 against respondent No.7 and its officials for failure to comply with the directions of the central as well as state governments issued during the lockdown to curtail the spread of COVID-19.

3.1. Respondent No.7 is a company which is engaged in the manufacture of steel bright bars and has a steel melting and rolling plant at Khopoli in the district of Raigad. Industrial plant of respondent No.7 at Khopoli has two furnaces of 20 tonnes and 25 tonnes respectively, employing about 150 workers, both skilled and unskilled.

3.2. On 11.03.2020, World Health Organization (WHO) declared coronavirus, known as COVID-19, as a global pandemic. Following the same, Government of India invoked the Disaster Management Act, 2005 and declared nation wide lockdown for a period of 21 days on 24.03.2020. Guidelines were issued by the National Disaster Management Authority for maintaining social distancing as well as the steps to be taken to prevent and arrest the spread of the pandemic. State of Maharashtra also enforced the aforesaid lockdown which was subsequently extended from time to time. In the meanwhile, guidelines issued for maintaining social distancing during the lockdown were revised from time to time by both the central government as well as by the state government.

3.3. According to the petitioners, workers of respondent No.7 were not paid wages from December 2019 onwards despite reporting for work regularly. It is stated that respondent No.7 was fully operational and all its workers had reported for duty during the period from December 2019 to March 2020 but they did not receive any wages for this period.

3.4. Though initially verbal instructions were issued by respondent No.7 to the workers to stop reporting for work from 19.03.2020, subsequently specific instructions were issued on 23.03.2020 calling upon the workmen not to report for work with effect from 24.03.2020.

3.5. Petitioners have stated that respondent No.7 was fully operational in its activities prior to the lockdown but halted its functioning from 24.03.2020 onwards due to declaration of lockdown. Subsequently, as per the guidelines of the central government dated 15.04.2020, industrial enterprises like respondent No.7 were permitted to commence operations being a permitted industrial establishment located in an industrial estate. But at the same time, central government had made it abundantly clear that certain conditions were required to be fulfilled for restarting industrial activities. Such standard operating procedure and related guidelines were in force till 18.05.2020. Allegation of the petitioners is that such standard operating procedure and guidelines were not followed by the management of respondent No.7 and carried out industrial activities in complete contravention of the guidelines.

3.6. As per order of the state government dated 02.05.2020, the industrial plant of respondent No.7 was located in an orange zone. Workers reside at far-off places and not nearby the factory. Because of restrictions imposed, they could not commute from their residence to the factory premises as they did not have any transportation of their own. As a matter of fact, no arrangements were made by respondent No.7 for transportation of the workers from their residence to the industrial plant or for stay of the workers in and around the factory premises. Notwithstanding the same, some of the workers did manage to make the journey from their residence to the industrial plant on their own but they were prevented from entering through the main gates of the factory. Other workers were unable to report for duty as no transportation was arranged by respondent No.7.

3.7. Result of the above was that workers in dire need of wages and fully willing to work were either unable to reach the premises of respondent No.7 or not allowed to enter.

3.8. Acting on a complaint made by the petitioners that respondent No.7 did not pay wages to the workers from December 2019 onwards, respondent No.5 i.e., Deputy Commissioner of Labour, Raigad issued a show cause notice to respondent No.7 on 04.05.2020 stating that respondent No.7 had violated section 5 of the Payment of Wages Act, 1936 and called upon respondent No.7 to clear the due wages of the workers with immediate effect. Unfortunately, respondent 3No.7 has not complied with the said show cause notice.

3.9. On the other hand respondent No.7 issued a notice dated 07.05.2020 alleging that its plant was closed on 20.03.2020 and that the workers had decided to stay at home much before declaration of lockdown further alleging that the workers represented by the petitioners had initiated an illegal strike against the company. Workers were called upon to resume their duties.

3.10. Petitioners have denied the allegations made against the workers by respondent No.7 in the notice dated 07.05.2020. Besides, petitioners have contended that respondent No.7 had not paid wages of the workers for the months of December 2019, January 2020 and February 2020. Petitioners responded to the said notice by a detailed letter dated 11.05.2020 particularly refuting the allegation that the workers were on strike.

3.11. It is stated that on 04.04.2020, a token payment of only Rs.1000.00 was made to the workers for the month of March 2020 and thereafter an amount of Rs.4,000.00 was paid on 16.04.2020 for the month of April 2020 which cannot be construed to be adequate payment considering the fact that no worker of respondent No.7 receives wages

below Rs.8,000.00 per month. It is further stated that no worker of respondent No.7 has received more than 50% of a single month's salary for the months of March, April and May 2020, besides not receiving any payment for the previous months of December 2019, January 2020 and February 2020.

3.12. It is further stated that respondent No.7 had circulated a notice dated 27.04.2020 sanctioning only 45 workers to report for duty. According to the petitioners, this will only go to show that there was no strike by the workers. Had the workers been on strike, question of calling the said group of workmen to report for duty would not have arisen.

3.13. After the lockdown was extended from 19.05.2020 till 31.05.2020, the workers made an attempt to reach the factory premises to report for work. However, they were not allowed to enter the premises. Resultantly, they waited the whole day outside the main gates of the factory with the hope that they would be allowed to enter into the factory premises and to resume their work but it was to no avail.

3.14. Petitioners have relied upon a circular dated 20.03.2020 of the Ministry of Labour and Employment, Government of India as well as order of the Ministry of Home Affairs, Government of India dated 29.03.2020 issued under section 10(2) of the Disaster Management Act, 2005 calling upon all employers to make payment of wages to their workers on the due date without any deduction for the period the establishment was under closure during the lockdown.

3.15. Reliance is also placed on consequential notification dated 31.03.2020 of the Industry, Energy and Labour Department, Government of Maharashtra clarifying that all the factory workers who had to remain at home due to outbreak of COVID-19 and lockdown should be deemed to be on duty and should be paid their full wages. In contravention of the

above government directives, respondent No.7 has paid only Rs.1000.00 and Rs.4,000.00 respectively to the workers for the months of March and April 2020 besides wages for the months of December 2019, January 2020 and February 2020 having not been paid.

3.16. Petitioners had also represented before respondent Nos.1 to 6 on 13.05.2020 regarding non-payment of wages by respondent No.7 and the resultant distress conditions of the workmen. Unfortunately no action has been taken by respondent Nos.1 to 6 against respondent No.7.

3.17. It is with the above grievance that the present writ petition has been filed seeking the reliefs as indicated above.

4. Respondent Nos.3, 4 and 5 have filed a common reply affidavit through Shri. Pradeep Namdev Pawar, Deputy Commissioner of Labour, Raigad stating that since petitioners' grievance primarily pertain to payment of wages for the period from December 2019 to 24th March 2020 till the date of lockdown, response of the said respondents would be confined to this grievance only, besides the answering respondents having no authority under the Disaster Management Act, 2005 to respond to the other grievances.

4.1. It is stated that petitioners and workers of respondent No.7 lodged complaints on 28.12.2019 and 28.04.2020 about delay in payment of wages as well as non-payment of wages by respondent No.7 to the workers. On receipt of the initial complaint, office of Deputy Commissioner of Labour, Raigad issued notice to respondent No.7 calling upon representatives of respondent No.7 for discussions on 06.02.2020 and 20.02.2020. However, respondent No.7 did not pay wages to the workmen on the ground of business difficulties attributable to the workmen themselves since December 2019.

4.2. It is stated that such act on the part of respondent No.7 either in

delayed payment of wages or for non-payment of wages is violative of section 5 of the Payment of Wages Act, 1936 (referred to hereinafter as the 'Payment of Wages Act'). Therefore, a show cause notice dated 04.05.2020 was issued to respondent No.7 by the Government Labour Officer, Raigad, being the competent authority under the aforesaid Act. Respondent No.7 submitted reply to the show cause notice through email on 11.05.2020 citing financial difficulties as the reason for non-payment of wages.

4.3. Since the reply was found to be not satisfactory, the competent authority sought for approval from the sanctioning authority for prosecution. Accordingly, sanction for prosecution was granted on 26.05.2020. It is stated that the criminal complaint for violation of Payment of Wages Act would be filed by the Inspector i.e., the competent authority against respondent No.7. Finally, it is stated that office of respondent No.5 has taken due cognizance of the complaint and accordingly appropriate legal action has been initiated.

5. Respondent No.7 in its affidavit has raised preliminary objection as to maintainability of the writ petition. It is stated that alleged grievance of the petitioners is breach of the provisions contained in the Payment of Wages Act in which event section 15 thereof provides for an efficacious remedy. Since petitioners have statutory remedy for redressal of their grievance, High Court should not entertain the writ petition so filed in exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India. It is further stated that petitioners have not approached the Court with clean hands. They have suppressed the fact that there is a registered trade union representing the workmen employed with respondent No.7 which is the *Bhartiya Kamgar Karmachari Mahasangh* registered under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. Respondent No.7 had entered into settlement with the said *Mahasangh* regarding payment of wages which have been accepted by the workmen.

Such settlement has been suppressed by the petitioners. Petitioners have also suppressed the fact that respondent No.7 had lodged a complaint against petitioner No.1 of indulging in unfair labour practice which has been registered as Complaint (ULP) No.265 of 2014 before the Industrial Court, Thane which is pending. Industrial Court has passed order in the said complaint prohibiting petitioner No.1 from forcibly preventing movement of men, material and vehicles into the factory premises. Of course, petitioner No.1 has also filed counter complaint against respondent No.7 before the Industrial Court at Thane which has been registered as Complaint (ULP) No.9 of 2020 which is pending. It is further stated that petitioners have suppressed the fact that respondent No.7 is a continuing process industry. Declaration of lockdown did not result in suspension of operation or closure of factory of respondent No.7. However, it is alleged that the workmen refused to report for work on and from 20.03.2020. Further stand taken is that *Bhartiya Kamgar Karmachari Mahasangh* being the recognized union of workmen of respondent No.7 is a proper and a necessary party which ought to have been added as a respondent. For non-joinder of necessary party, writ petition should be dismissed.

5.1. Petitioners' claim to wages for the workmen is disputed on the ground that majority of the workmen did not report for duty during the period from December 2019 to February 2020. Therefore, the workmen are not entitled to wages for the said period as a matter of right. Besides, the issue as to payment of wages has been amicably resolved between respondent No.7 and the recognized trade union by way of settlement. As per the settlement, the condition precedent for receiving wages is that all workmen should resume duty and restore operation of the factory to the normal level. Wages are to be paid in six monthly installments after adjustment of advances paid to the workers.

5.2. On merit it is stated that Government of India, Ministry of Home Affairs notification dated 24.03.2020 has no application to respondent

No.7 as it was one of the establishments which was not required to be closed during lockdown. Therefore, the industrial plant of respondent No.7 was not under closure during the lockdown. On the basis of the said notification, petitioners cannot claim wages for the lockdown period. In any case the said notification is under challenge before the Supreme Court in Writ Petition (Civil) Diary No.11193 of 2020, *Hand Tools Manufacturers Association Vs. Union of India* in which case Supreme Court while issuing notice has passed an interim order directing that no coercive action shall be taken in the meanwhile. Therefore, payment of wages as per Government of India notification dated 24.03.2020 is subjudiced before the Supreme Court.

5.3. After giving description of the factory of respondent No.7, facilities extended to workmen have been referred to. It is stated that there are about 350 employees of respondent No.7. Out of them, provision for accommodation of around 150 workers have been made by respondent No.7 in the neighbourhood of the factory. Besides, food was provided to the workers during the lockdown period. Workmen come to the factory on bicycle, scooter or motorcycle availing their own conveyance. Since the distance between residence of the workers and the factory being in close proximity, the notification directing the industrial units to provide transportation facilities to the workers would not be attracted in the case of respondent No.7.

5.4. Reference has been made to an industrial accident which took place on 11.07.2019 when the induction furnace got punctured and liquid metal started coming out. As a result fire had broken out in the plant. Because of the above accident, operations of the factory had come to a standstill for about 40 days leading to delayed payment of wages.

5.5. Reference has been made to the Industrial Employment (Standing Orders) Act, 1946 and the Rules framed thereunder as well as the Model Standing Orders. Reliance has been placed on clause 18 of the Model

Standing Orders to contend that in the event of a fire etc., management may stop the factory without notice and without compensation to the workers. Despite heavy loss sustained by respondent No.7, it had entered into an understanding with the recognized trade union regarding payment of wages. As per the agreement, respondent No.7 agreed to advance Rs.5,000.00 per worker. Accordingly, a sum of Rs.1000.00 was paid on 04.04.2020 and a further sum of Rs.4,000.00 was paid on 16.04.2020 to each worker. It is further stated that the aforesaid amount of advance is to be adjusted against the payment of wages for the months of December 2019, January 2020 and February 2020, while denying that the advance so paid was against outstanding wages for the months of March and April 2020.

5.6. Respondent No.7 has filed a self-declaration dated 27.04.2020 before the authority declaring that it has complied with all the safety measures as per directives of Government of India as well as Government of Maharashtra.

5.7. Regarding the notice dated 07.05.2020, it is stated that factory of respondent No.7 remained closed since 20.03.2020 as the workers decided to stay at home. Workers were informed that there were neither any production activities nor any dispatches after 20.03.2020 due to which there was no inflow of cash to meet the expenses of respondent No.7. Workmen were requested to co-operate with the management.

5.8. Regarding the show cause notice issued by respondent No.5, it is stated that the same has been responded to by respondent No.7 on 11.05.2020 *via* e-mail. Referring to the settlement arrived at with the recognized trade union, it is stated that the amount agreed to be paid for the period from December 2019 to February 2020 in lieu of wages would be paid in six equated monthly installments and in response to the said notice, the recognized trade union *vide* letter dated 16.05.2020 agreed to resume work while assuring full co-operation to the

management. On request of the recognized trade union, respondent No.7 agreed to pay one month's wages to all the workers who resumed their duty while paying the balance amount in six equated installments spread over six months commencing from June 2020.

5.9. Respondent No.7 has alleged that petitioners have not resumed their work; rather they are threatening the management for which police complaint had to be lodged.

5.10. In such circumstances, respondent No.7 has contended that the workers are not entitled to any wages for the months of April 2020 and May 2020, further asserting that they will not be entitled to wages till they report for duty and commence normal work.

6. Petitioners have filed a composite rejoinder affidavit to the reply affidavit of respondent Nos.3, 4 and 5 on the one hand and reply affidavit of respondent No.7 on the other hand. Preliminary objections raised by respondent No.7 have been disputed and denied by the petitioners on the ground that petitioners seek compliance to government instructions to enable the workers to work in the factory of respondent No.7 while maintaining social distancing and adopting safety standards. Regarding settlement entered into between management of respondent No.7 and *Bhartiya Kamgar Karmachari Mahasangh*, it is stated that petitioners do not want to challenge the said settlement and therefore, *Bhartiya Kamgar Karmachari Mahasangh* is neither a necessary party nor a proper party to the present proceeding. That apart, petitioners are not aware of the settlement; even a copy thereof has not been placed on record. It is however contended that when a workman is denied wages or a union representing the workers whose wages have not been paid, can initiate proceedings for recovery of wages. Settlement cannot be contrary to the law. Workers are entitled to payment of wages that too on due date. The same cannot be diluted or divested by way of a settlement. Averments have been made regarding residence of some workers stating

that those workers are residing in such area much before factory of respondent No.7 was set up. Many workers reside in far-off places and commute to the factory by way of public transport. In the absence of public transport during the lockdown, it became difficult, rather impossible for the workers to reach the factory. Therefore, prayer was made for arrangement of transportation by respondent No.7 for the workers.

6.1. Regarding the fire incident, it is stated that the same has got no relation to the present grievance of the petitioners. That apart, the accident has been magnified and blown out of proportion to blame the workers, thereby absolving respondent No.7 of its negligence and wrong doing. Without the co-operation of the workers, it would not have been possible for respondent No.7 to have started production again after the fire incident. Once production activity started, dispatch of finished goods never stopped which were continuously delivered to the customers. Provisions of the Standing Orders are not applicable to the facts of the present case. Regarding wages of the workers, it is stated that average wage of 90% of workers is between Rs.8,000.00 and Rs.16,000.00 per month and upto Rs.22,000.00 for 10% of workers. Allegation of respondent No.7 that the workers did not report for duty has been denied.

7. Respondent No.7 has filed an affidavit in sur-rejoinder to the rejoinder affidavit of the petitioners. Grievance has been made therein to an order passed by this Court on 15.06.2020 whereby a direction was given to respondent No.5 to take all possible steps as permissible under the law to ensure that the due wages are paid by respondent No.7 to its workmen. Regarding the fire incident, it is stated that respondent No.7 was entitled to lay-off the workers if the manufacturing activity had come to a standstill on account of the fire incident. However, because of the request made by the recognized union, such a course of action was not adopted by the management. Respondent No.7 and the recognized

union have entered into a settlement *vide* the minutes of meeting dated 28.05.2020, copy of which has been placed on record. It is stated that as per the minutes of the meeting, workers have accepted payment of compensation equivalent to one month's wages for the wage period i.e. December 2019 to March 2020. Workers who had earlier refused to resume duty and had prevented willing workmen from reporting for duty have now themselves reported for work. Attendance of workmen has been marked and payment for the month of June 2020 onwards shall be made as per record of attendance. As per the settlement, the workmen have received or shall receive compensation equivalent to full wages as per statement made in paragraph 10 of the said affidavit, which is extracted hereunder:-

Sr. No.	Month	Date of Payment	Remarks
1	July, 2019	21/09/2019	Paid
2	August, 2019	24/10/2019	Paid
3	September, 2019	09/12/2019	Paid
4	October, 2019	10/01/2020	Paid
5	November, 2019	28/02/2020	Paid
6	December, 2019	29/05/2020	Paid
7	January, 2020	30/06/2020	Paid
8	February, 2020		Will be payable in 3 equal installments from July 2020.
9	March, 2020		

7.1. Finally it is stated that as per agreement, the net amount of compensation attributable to salaries for the month of January 2020 was disbursed on 30.06.2020. Amount of compensation attributable to salary for the months of February 2020 and March 2020 shall be payable in three equal installments from July 2020 as per settlement. Reference has been made to several export orders of finished products to be executed by respondent No.7.

8. In response to the affidavit in sur-rejoinder of respondent No.7, petitioners have filed additional affidavit in rejoinder in which it is stated that at around 1:15 a.m. of 14th July 2020, a cylinder in the factory of

respondent No.7 exploded which resulted in the dismembering and immediate death of two workers and critical injury to another worker requiring hospitalization. These go to show that no safety measures were put in place by respondent No.7 which resulted in the said unfortunate and ghastly accident. Instead of opening up the factory in a phase-wise manner and taking all safety measures, respondent No.7 compelled the workers to work at an increased pace to meet the export demands. Workers were not provided any protective gear. The two deceased workers are Dinesh Wamanrao Chavan and Pramod Dudhnath Sharma. The injured hospitalized worker is Subhash Wajale. All the three workers were not paid wages for the month of January 2020. The tragic event of 14.07.2020 only indicates a pattern of neglect displayed by respondent No.7 towards the interest and safety of the workers.

8.2. Petitioners have also stated that they have not received copy of any settlement entered into between *Bhartiya Kamgar Karmachari Mahasangh* and respondent No.7 and denied that they are bound by any such settlement. Respondent No.7 has not made full and complete payment of wages to its workers for the months of December 2019 and January 2020. Only 97 out of 450 workers and employees have been paid their wages / salary for the month of January 2020 but even in that case also an amount of Rs.5,000.00 was deducted from their wages / salary for the month of January 2020 against payments made in April 2020.

9. Ms. Singh, learned senior counsel for the petitioners has deprecated the conduct of respondent No.7 and submits that respondent No.7 has not taken any effective steps to protect the interest of the workers. Health and safety of the workers are of least importance to respondent No.7. Action of respondent No.7 in not allowing workers to resume duty on the one hand and terming them as absentees on the other hand is most unfortunate. Stand of respondent No.7 is contradictory. On the one hand it says the factory was functional during the lockdown

being an exempted industry, on the other hand it says that the factory was closed because the workers did not report for duty. Delayed payment of wages or denial of wages or deferred payment of wages that too in installments cannot be justified. She submits that there is clear violation of the provisions contained in the Payment of Wages Act. Respondent No.7 cannot shirk its legal obligations towards the workmen on whose labour it earns profit.

10. Ms. Salunkhe, learned AGP submits that respondent No.5 has taken cognizance of the complaint made by the petitioners and thereafter has taken decision to lodge criminal complaint against respondent No.7.

11. Mr. Naidu, learned counsel for respondent No.7 at the outset submits that because of wrong submissions made by the petitioners, this Court had passed the order dated 15.06.2020. Had the proper facts been placed before the Court, order dated 15.06.2020 would not have been passed. He, therefore, submits that the said order may be recalled. Referring to the two affidavits filed by respondent No.7, he submits that management has already arrived at a settlement with the recognized trade union, and therefore, petitioners have no *locus standi* to file the instant writ petition. Stressing upon the preliminary objections, he submits that the writ petition should not be entertained. Management will act as per terms of settlement arrived at with the recognized trade union. Remaining payments for the period from December 2019 to March 2020 will be paid in installments as per terms of the settlement.

11.1. Mr. Naidu has blamed the conduct of the petitioners and submits that they were responsible for creating stalemate in the factory premises of respondent No.7 which had hampered production; thus making it impossible for respondent No.7 to pay wages to the workmen. He, therefore, seeks dismissal of the writ petition.

12. In her reply submissions, Ms. Singh, learned senior counsel for

the petitioners submits that by way of a settlement, right of a worker to receive his wage cannot be diluted or denied. Workers by dint of their labour have earned their wages and respondent No.7 is duty bound to pay the same. She submits that there can be no settlement in contravention of the statute. In this connection, she has placed reliance on the following two decisions of the Supreme Court:-

1. *Shree Changdeo Sugar Mills Vs. Union of India*, (2001) 2 SCC 519; and
2. *Oswal Agro Furane Limited Vs. Oswal Agro Furane Workers' Union*, (2005) 3 SCC 224.

12.1. She finally submits that the preliminary objections as to maintainability as well as objections on merit are without any substance and those are liable to be rejected. Relief(s) sought for may be granted to the petitioners.

13. Submissions made by learned counsel for the parties have been duly considered. Also perused the materials on record.

14. After going through the pleadings and the rival submissions what is discernible is that core grievance of the petitioners is non-payment of full wages to the workmen of respondent No.7 from December 2019. Related to this grievance is the alleged failure of respondent No.7 to take safety measures for the workers in its industrial plant at Khopoli in Raigad district, besides not making suitable arrangements for transportation of the workers during the lockdown related restrictions which has prevented the workers from reporting for duty.

15. Respondent No.7 in its reply affidavit has stated that pursuant to discussion with the recognized trade union i.e. *Bhartiya Kamgar Karmachari Mahasangh*, respondent No.7 agreed to advance Rs.5,000.00 per worker in order to mitigate the difficulties faced by the workers. Accordingly, respondent No.7 advanced a sum of Rs.1,000.00 on 04.04.2000 and a further sum of Rs.4,000.00 on 16.04.2020 to each

worker. According to respondent No.7, the aforesaid amount was to be adjusted against the wages for the months of December 2019, January 2020 and February 2020. Respondent No.7 in paragraph 45 of the said affidavit referred to the settlement entered into with the recognized trade union regarding payment of wages for the period from December 2019 to February 2020 as per which the wages would be paid in six equated monthly installments. However, particulars of the settlement have not been mentioned; neither a copy of the settlement has been placed on record.

16. In the affidavit in sur-rejoinder, respondent No.7 has stated in paragraph 8 thereof that it has reached a settlement with the recognized trade union whereby it was agreed upon that management would pay full wages to the workmen for the period of lay-off as per terms and conditions of the settlement. It is stated that the said settlement was recorded *vide* the minutes of the meeting dated 28.05.2020, which has been placed on record as exhibit-D to the sur-rejoinder along with its English translation.

17. From the above statement what transpires is that the settlement referred to and relied upon by respondent No.7 is the settlement recorded *vide* minutes of the meeting dated 28.05.2020. Be it stated that the writ petition was filed by the petitioners on May 18, 2020. Therefore, what transpires is that the settlement relied upon by respondent No.7 was made after filing of the writ petition.

18. Let us now turn to the settlement stated to have been arrived at between respondent No.7 and the recognized trade union in the meeting held on 28.05.2020. From the translated copy of exhibit-D at page 285 of the paper-book, it is seen that a meeting was held on 28.05.2020 at 12 noon in the office of the Tahsildar, Khalapur relating to various issues concerning the workers of India Steel Limited (respondent No.7), Copran Limited, Savroli and Ruby Mills, Kharsundi. Meeting was

attended by the local MLA of Karjat Constituency, Labour Deputy Commissioner, Assistant Labour Commissioner, Police Inspectors of local police stations, industrial representatives and representatives of the workmen. In so far respondent No.7 is concerned, the discussion centered around non-payment of wages of the workmen from December 2019 onwards and also termination of workmen. As per decision arrived at in the meeting, it was decided that respondent No.7 should transfer the wages for the month of December 2019 to the accounts of the workmen. Outstanding wages would be payable after 15 days of export of the produce of respondent No.7. Outstanding salary / wages would be paid by respondent No.7 by September 2020. All the workmen should attend their work and they should be loyal towards their work. After regular work is started, workmen would be paid salary regularly. Further, those workmen whose services were terminated would be taken back. Therefore, the terminated employees should withdraw the cases lodged by them.

19. In paragraph 10 of the said affidavit, respondent No.7 has stated that in terms of the said settlement, workmen have either received wages or would receive wages, the statement of which we have already extracted above. However, for the sake of convenience, the same is extracted again hereunder:

Sr. No.	Month	Date of Payment	Remarks
1	July, 2019	21/09/2019	Paid
2	August, 2019	24/10/2019	Paid
3	September, 2019	09/12/2019	Paid
4	October, 2019	10/01/2020	Paid
5	November, 2019	28/02/2020	Paid
6	December, 2019	29/05/2020	Paid
7	January, 2020	30/06/2020	Paid
8	February, 2020		Will be payable in 3 equal installments from July 2020.
9	March, 2020		

19.1. From this table, respondent No.7 claims that wages for the months

from July 2019 to January 2020 have been paid though there is delay in payment of wages. However, what is noticeable is that while the settlement is dated 28.05.2020, payments for the months of July 2019 to November 2019 were made prior to the date of settlement. Therefore, it is not understandable as to how the payments made on dates prior to the date of settlement can be said to have been made in terms of the settlement. However, what is clearly discernible is that payment of wages for each of the above months were delayed by two to three months. Regarding wages for the months of February and March 2020, it is stated that the same would be paid in three equal installments from July 2020. This is reiterated in paragraph 15 of the said affidavit wherein it is also stated that respondent No.7 has export orders for exporting finished products thus indicating that such export will lead to earning of profit by respondent No.7 which will facilitate payment of wages to workmen.

20. Regarding the settlement stated to have been entered into by respondent No.7 with the recognized trade union on 28.05.2020 is a settlement at all in the eye of law and whether such a settlement would be binding on the parties are issues which we will examine as we proceed with the judgment.

21. Respondent Nos.3, 4 and 5 in their common affidavit have stated that the workmen of respondent No.7 had lodged complaints regarding delay in payment of wages or non-payment of wages on 28.12.2019 and 28.04.2020. Though discussions were held in this regard, respondent No.7 did not pay wages to the workmen on the ground of business difficulties and resultant poor financial condition of the company attributable to the workmen. Show cause notice dated 04.05.2020 was issued to respondent No.7 by the Government Labour Officer, Raigad who is the Inspector under the Payment of Wages Act alleging violation of section 5 of the said Act. Though respondent No.7 submitted reply to the said show cause notice on 11.05.2020, the same was found to be not

satisfactory and after obtaining sanction for prosecution from the sanctioning authority on 26.05.2020, the said Inspector was ready to file criminal complaint against respondent No.7. Therefore, stand of respondent Nos.3, 4 and 5 is that office of respondent No.5 had taken cognizance of the complaint lodged by the workmen and accordingly appropriate legal action has been initiated.

22. Payment of Wages Act, 1936 is a pre-constitution legislation. Preamble of the Act says that it is an Act to regulate payment of wages to certain classes of employed persons. It is a special legislation dealing with wages and the enforcement of payment thereof. As per section 1(4) it applies to payment of wages to persons employed amongst others in any factory. Sub-section (6) of section 1 says that the said Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed Rs.24,000.00 per month.

22.1. 'Appropriate government' has been defined in section 2(i) to mean in relation to railways, air transport services, mines and oilfields, the central government and, in relation to all other cases, the state government. 'Factory' is defined in section 2(ic) to mean a factory as defined under the Factories Act, 1948 and includes any place to which the provisions of the said Act have been applied.

22.2. Sub-section (vi) of section 2 defines 'wages' to mean all remuneration whether by way of salary, allowances or otherwise expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment but does not include bonus, etc. Thus, the definition of 'wages' under the Payment of Wages Act is an exhaustive one.

22.3. As per section 3(1), every employer shall be responsible for the

payment of all wages required to be paid under the Payment of Wages Act to the persons employed by him and as per clause (a), in case of persons employed in factories, by a person if he has been named as the manager of the factory under the Factories Act, 1948.

22.4. Section 4 deals with fixation of wage periods. As per sub-section (1), every person responsible for the payment of wages under section 3 shall fix periods, referred to as 'wage periods', in respect of which such wages shall be payable. Sub-section (2) says that no wage period shall exceed one month. Section 5 is relevant and it deals with time of payment of wages. As per sub-section (1)(a) of section 5, the wages of every person employed upon or in any railway, factory or industrial or other establishment upon or in which less than one thousand persons are employed shall be paid before the expiry of the seventh day after the last day of the wage period in respect of which the wages are payable. In other cases before the expiry of the tenth day after the last day of the wage period in respect of which the wages are payable.

22.5. From a conjoint reading of sections 4 and 5 of the Payment of Wages Act, it is evident that every person responsible for payment of wages shall fix a wage period which shall not exceed one month and in a factory where less than one thousand persons are employed, the wages of every person employed therein shall be paid before the expiry of the seventh day after the last day of the wage period in respect of which the wages are payable. To give a concrete example, let us take the factory of respondent No.7 and wages for the month of January. Wages for the month of January has to be paid by the person responsible for payment of wages before the expiry of the seventh day after the last day of the wage period. The wage period having expired on 31st January, wages would have to be paid before expiry of the seventh day of February since admittedly in the factory of respondent No.7 employment is less than one thousand persons.

22.6. Section 6 says that all wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee.

22.7. Section 7 deals with deductions which may be made from wages. As per sub-section (1) wages of an employed person shall be paid to him without deduction of any kind except those authorized by or under the Payment of Wages Act. Sub-section (2) clarifies that deductions from the wages of an employed person shall be made only in accordance with the provisions of the said Act and may be of the following kinds only:- fines, deductions for absence from duty, etc. However, sub-section (3) says that the total amount of deductions in any wage period shall not exceed 50% of such wages except in case of payments to co-operative societies in which case it is 75% of the wages. If the total deductions exceed 50% or 75% as the case may be, the excess may be recovered in such manner as may be prescribed. Sub-section (3) starts with a *non-obstante* clause by use of the expression 'notwithstanding anything contained in this Act' to indicate that sub-section (3) has over-riding effect over other provisions of the Payment of Wages Act.

22.8. As per section 9(1), deductions may be made under clause (b) of sub-section (2) of section 7 only on account of absence of an employed person from the place of work, such absence being for the whole or any part of the period during which he is so required to work.

22.9. In the context of the present case, section 12 has some relevance. Section 12 deals with deductions for recovery of advances. Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions:-

- (a) recovery of an advance of money given before employment began shall be made from the first payment of wages;
- (b) recovery of an advance of money given after employment began shall be subject to such conditions as the appropriate government may impose, etc.

22.10. Thus deductions for recovery of advance given by the employer to the employee in the course of employment can only be made subject to such conditions as the appropriate government may impose. In other words, before such deductions are made, the factum of advance given and recovery sought to be made have to be brought to the notice of the appropriate government who may impose such conditions as is considered necessary. Only thereafter the deductions can be made complying with the conditions.

22.11. Appointment of Inspectors and exercise of their functions are dealt with in section 14.

22.12. Section 15 deals with claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims. As per sub-section (1), the appropriate government may by notification in the official gazette appoint the officers mentioned therein as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of wages, of persons employed or paid in that area, including all matters incidental to such claims. Sub-section (2) says that when any deduction has been made from the wages of an employed person contrary to the provisions of the Payment of Wages Act or payment of wages has been delayed, the affected person himself or any legal practitioner or any official of a registered trade union or a representative union or any inspector under the said Act or any other person acting with the permission of the authority appointed under sub-section (1) may apply to such authority for a direction under sub-section (3). In the case of death of the employed person, it shall be lawful for his legal representative to make application for such direction. Limitation period for making such application is 12 months from the date on which the deduction was made or from the date on which payment of the wages was due, which period is however, extendable on sufficient cause being shown. As per sub-

section (3) when an application is entertained under sub-section (2), the authority shall hear the applicant and the employer and after such enquiry, if considered necessary, direct refund to the employed person the amount deducted or direct payment of the delayed wages together with payment of such compensation as the authority may think fit which shall however not exceed ten times the amount deducted or three thousand rupees but not less than one thousand five hundred rupees in case of delayed payment. Such direction is without prejudice to any other penalty to which the employer is liable. Proviso to sub-section (3) clarifies that such a claim shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority which period may be extended for any *bona fide* reason. An appeal lies under section 17 against an order passed under sub-sections (2), (3) and (4) of section 15.

22.13. Broadly speaking the principal object of Payment of Wages Act is to avoid unnecessary delay in payment of wages and to prevent unauthorized deductions from wages. Specific purpose of the Act, being a special legislation, is to ensure prompt and full payment of wages to persons employed in industry.

23. From the averments made in the petition and not controverted, it is seen that the wages of the workmen employed in the factory of respondent No.7 do not exceed Rs.24,000.00 per month and the number of persons employed in the factory of respondent No.7 is well below one thousand. Therefore, provisions of the Payment of Wages Act is applicable to the factory of respondent No.7. From the scheme of the Payment of Wages Act it is clearly evident that receiving wages by a workman is a statutory right and such wages are statutorily required to be paid by a particular date; in the case of the petitioners it has to be paid before expiry of the seventh day after the last day of the wage period in respect of which wages are payable. Respondent No.5 has taken the view that respondent No.7 has breached section 5 of the Payment of

Wages Act and accordingly has taken steps for lodging complaint against respondent No.7 under section 15 of the said Act.

24. Part IV of the Constitution of India deals with Directive Principles of State Policy. Article 43 which is a directive principle of state policy is concerned with living wage, etc. for workers. Essence of Article 43 is that the state shall endeavour to secure by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure etc. This provision is an endeavour to secure a decent standard of life and economic security of workers. Objective of our Constitution as illuminated by the Preamble is to provide a decent standard of life to the working people and to ensure security from cradle to grave. That apart, as per Article 43-A, the state shall take steps by a suitable legislation or in any other way, to secure the participation of workers in the management of any industry. This Article which was inserted in the Constitution by way of the 42nd amendment has opened a new perspective in industrial relations. As observed by the Supreme Court in *Gujarat Steel Tubes Limited Vs. Mazdoor Sabha*, AIR 1980 SC 1896, labour is no more a mere factor in production but a partner in industry. The morality of law and the constitutional mutation implied in Article 43-A has brought about a new equation in industrial relations.

25. Article 21 of the Constitution of India has perhaps received the maximum attention of the constitutional courts in the country. Consequently, it has expanded its scope much beyond what was visualized by the founding fathers. Literally speaking, Article 21 says that no person shall be deprived of his life or personal liberty except according to procedure established by law. As a result of liberal interpretation of the expressions 'life' and 'liberty', Article 21 has now come to be invoked almost as a residuary right. In a large number of decisions, Supreme Court has interpreted Article 21 in an expansive

manner to encompass within its fold a large variety of rights. It has been held that enjoyment of a quality life by the people is the essence of the guaranteed right under Article 21 of the Constitution. Further, the right to life enshrined in Article 21 has been held to mean something more than survival or animal existence; it would include the right to live with human dignity, besides including all those aspects of life which go to make a man's life meaningful, complete and worth living. Thus, the right to life guaranteed under Article 21 of the Constitution embraces within its sweep not only physical existence but the quality of life as well. Right to life guaranteed in any civilized society implies the right to food, water, a decent environment, education, medical care and shelter.

26. Pausing here for a moment, we may ask ourselves whether in the absence of due wages or delayed payment of due wages by several months not authorized under the statute in question i.e., Payment of Wages Act, can a person be said to live with human dignity? The answer to us appears to be quite obvious. Denial of due wages either by way of non-payment or by way of deferred payment or by way of installments would certainly infringe upon the cherished human right of a workman under Article 21 of the Constitution of India.

27. We may now come to the Industrial Disputes Act, 1947, the principal objective of which is to ensure industrial peace and harmony which in turn will lead to increased productivity and thus, help in the economic growth of the country. Underlying object of the Act is to make provision for investigation and settlement of industrial disputes. 'Industrial dispute' has been defined in section 2(k) to mean any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person. As per section 2(p), 'settlement' has been defined to mean a settlement arrived at in the course of conciliation proceeding and includes a written agreement

between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in the manner prescribed and a copy thereof has been sent to an officer authorized in this behalf by the appropriate government and the conciliation officer.

27.1. Before discussing the concept of settlement under the Industrial Disputes Act, 1947, it would be apposite to refer to a couple of other provisions dealing with settlement. Section 18 deals with persons on whom settlements and awards are binding. As per sub-section (1), a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. As per the *proviso*, where there is a recognized union then such agreement shall be arrived at between the employer and the recognized union only and such agreement shall be binding on all persons.

27.2. As per sub-section (1) of section 19, a settlement shall come into operation on such date as is agreed upon by the parties to the dispute and if no date is agreed upon, on the date on which the memorandum of settlement is signed by the parties to the dispute. Sub-section (2) says that such a settlement shall be binding for such period as is agreed upon by the parties and if no such period is agreed upon, for a period of six months from the date of the settlement and shall continue to be binding on the parties after expiry of the period aforesaid until expiry of two months from the date on which notice is given to terminate the settlement.

27.3. In exercise of powers conferred by section 38 of the Industrial Disputes Act, 1947, central government has made a set of rules called the Industrial Disputes (Central) Rules, 1957. As per rule 58(1), a settlement arrived at in the course of conciliation proceedings or otherwise shall be in Form H. Sub-rule (2) says that the settlement shall

be signed by the employer or by his authorized representative or in the case of an incorporated company or body corporate, by the agent, manager or principal officer of the company and in the case of the workmen, by any officer of the trade union or by five representatives of the workmen duly authorized. Form H gives the format of settlement. It is styled as 'Form for Memorandum of Settlement'. It includes names of the parties, short recital of the case and terms of settlement. While parties to the settlement are required to put their signatures, it has to be in front of minimum two witnesses.

28. A conjoint reading of sections 2(p), 18 and 19 of the Industrial Disputes Act, 1947 would go to show that a settlement can be arrived at between the employer and the workman either in the course of a conciliation proceeding or otherwise than in the course of a conciliation proceeding. In so far the present case is concerned, admittedly there is no conciliation proceeding between the employer and the workmen; therefore, it is a settlement which is otherwise than in the course of conciliation proceeding. Such a settlement has to be in Form H; signed by both the parties in presence of witnesses and copy thereof has to be sent to an officer authorized in this behalf by the appropriate government as well as to the conciliation officer. Such settlement shall be binding on the parties provided that when there is a recognized trade union, the settlement has to be with the recognized trade union only. A settlement so arrived at shall come into operation from the date of the settlement and shall continue to be binding for a period of six months and until expiry of two months thereafter when a notice is given for terminating the settlement.

28.1. Several high courts have held that any settlement reached between the employer and employee otherwise than in the course of conciliation proceedings is valid only when the provisions under Rule 58 of the Industrial Disputes (Central) Rules, 1957 and Form H have been fully complied with. Further, copy of the same has to be sent to the

appropriate government and the conciliation officer jointly by the employer and employee. This Court in *Parke-Davis (India) Ltd. Vs. Mahadev Bhiku Jadhav*, **2008 (2) ALL MR 677** has held that where the minutes of the meeting between the company and workmen were not in the nature of an agreement or settlement as is understood in industrial jurisprudence, those minutes were not a settlement as defined under section 2(p) of the Industrial Disputes Act, 1947 and, therefore, would not be binding on the workmen.

28.2. Since there is a statutory definition of the word 'settlement', it is not necessary to go or delve beyond such a definition. However, when we say settlement in the context of industrial adjudication, it presupposes an industrial dispute. When such a dispute arises, it must be followed by a process of negotiations between the parties to the dispute culminating in a settlement. Viewed in that context, a settlement would mean reaching a compromise or compromising a dispute by and between the parties. Since a settlement results in certain rights and liabilities, a mere understanding between the parties may not amount to a settlement under the Industrial Disputes Act, 1947.

29. Having broadly noticed the relevant legal provisions, we may now advert to the settlement dated 28.05.2020.

30. As already noted above, it was basically a meeting in the office of the Tahsildar where besides representatives of the employer and the workmen, labour officials as well as police officials were also present. Minutes of the meeting discloses presence of the local MLA too. Topic of discussion *vis-a-vis* respondent No.7 pertained to non-payment of wages from December 2019 and also termination of service of some workmen. As per the minutes, respondent No.7 agreed to pay the outstanding wages for the month of December 2019 into the accounts of the workmen. Balance outstanding wages would be paid after 15 days of export by respondent No.7 and cleared by September 2020. On the part

of the workmen, it was stressed upon that they should attend to their duties and be loyal to their work. After starting of regular work, workmen would be paid regular wages; besides, those workmen whose services were terminated would be taken back for which they should withdraw the cases filed by them.

31. *Stricto sensu*, the meeting which was held on 28.05.2020 cannot be construed as a settlement within the meaning of section 2(p) of the Industrial Disputes Act, 1947. This is so because this was not a settlement *per se* between the employer and the workmen but some kind of an understanding reached in the presence of and possibly at the instance of outside authorities. Besides, there is nothing on record to show that the minutes were recorded in Form H and that the procedural requirements under section 2(p) of the Industrial Disputes Act, 1947 as well as rule 58 of the Industrial Disputes (Central) Rules, 1957 were complied with. In the absence thereof, no sanctity can be attached to the minutes of the meeting held on 28.05.2020 being devoid of enforceability.

32. Even if for the sake of argument it is construed to be a settlement, in our view, such a settlement may not be sustainable in law. As per this settlement, wages for the month of December 2019 would be deposited into the accounts of the workmen on or after 28.05.2020 which is almost after a period of five months. Balance outstanding wages would be paid by September 2020 contingent upon export of products by respondent No.7. We have already discussed that payment of due wages to a workman is a statutory right under section 5 of the Payment of Wages Act. Following our deliberations we may also say that payment of due wages is a fundamental right of a worker under Article 21 of the Constitution. Financial difficulties of employer cannot be a ground for non-payment or delayed payment of wages to workmen. It cannot also be made contingent upon receipt of export orders by the employer.

33. Question for consideration is can there be any settlement in the context of industrial adjudication which is in contravention of the statute, not to speak of a fundamental right under the Constitution?

34. In **Shree Changdeo Sugar Mills** (*supra*), issue before the Supreme Court was that there was a settlement between the management and the workmen regarding contribution towards provident fund. Terms of the settlement provided that there should be no deduction from the wages as contribution towards provident fund. It was in that context a submission was made on behalf of the employer that the employer should not be made to contribute the employees' share as they could not and had not deducted the same from the wages paid. Supreme Court did not accept the said submission and held that it is the duty of the employer to contribute. Employer's agreement with the employee not to deduct does not discharge the employer of his obligation in law to make payment. It was explained that the term of the settlement which provided that there should be no deduction only meant that the employer had agreed to take on this liability also.

35. Again in the case of **Oswal Agro Furane Ltd.** (*supra*), question before the Supreme Court was whether in a case of closure of an industrial undertaking, prior permission of the appropriate government was imperative and whether a settlement arrived at by and between the employer and the workmen would prevail over the statutory requirements as contained in section 25-N and section 25-O of the Industrial Disputes Act, 1947. It was in that context, Supreme Court held that a settlement can be arrived at between the employer and the workmen in case of an industrial dispute. However, such a settlement has to be in accordance with law. Such a settlement must conform to the statutory conditions laying down a public policy. A contract which may otherwise be valid however must satisfy the tests of public policy not only in terms of the aforementioned provisions but also in terms of section 23 of the Indian Contract Act, 1872.

36. Therefore, in our view, a settlement which is contrary to section 5 of the Payment of Wages Act would be opposed to public policy. Being contrary to the statute, the same cannot prevail over the statutory as well as the fundamental right of the petitioners to their due wages.

37. In the above backdrop, we may advert to our order dated 15.06.2020, relevant portion of which is extracted hereunder:

“2. Learned counsel for the petitioner submits that the workmen working in the establishment of respondent No.7 have not been paid their wages since December, 2019. She has drawn our attention to the affidavit filed by respondent No.5 and submits that in spite of intervention by respondent No.5, respondent No.7 has not taken any steps to pay the wages of the workmen.

3. Mrs. Salunkhe, learned AGP representing the State submits that steps have been taken for prosecution of respondent No.7. She further submits that in view of intervention by respondent No.5 wages for the month of December, 2019 may have been paid to the workmen by now. However, she would like to ascertain this aspect.

4. Be that as it may, having regard to the fact that the workmen working in the establishment of respondent No.7 have not been paid their wages since December, 2019, we direct respondent No.5 in the interim to take all possible steps as permissible under the law to ensure that the due wages are paid by respondent No.7 to its workmen. It would be in the interest of respondent No.7 to release the due wages to its workmen.”

37.1. In view of what we have discussed, we do not find any justification at all to recall the order dated 15.06.2020 which we have extracted above. Rather, such a direction is required to be made absolute.

38. Besides, conduct and statement of respondent No.7 also appear to be contradictory. On one hand it says that the lockdown did not affect its factory since it was exempted and was an ongoing production unit but at the same time it says that because of the intransigent attitude of the workers, the factory remained idle from 21st March 2020. While respondent No.7 has asserted that it has taken all precautionary measures within the industrial premises for the safety of the workers, petitioners

have vehemently denied the same. In fact, in the additional affidavit in rejoinder petitioners have mentioned that a blast took place in the factory premises of respondent No.7 on 14.07.2020 resulting in the death of two workers besides critically injuring one worker, which has not been disputed. Death of two workers with one worker being critically injured in a blast inside the factory premises of respondent No.7 on 14.07.2020 is a serious matter which cannot be overlooked or brushed aside. This needs to be enquired into.

39. In the light of what we have discussed, preliminary objection raised by respondent No.7 as to maintainability of the writ petition is found to be utterly misplaced and totally meaningless.

40. Therefore, having regard to the totality of the facts and circumstances of the case and upon thorough consideration of the matter, we are inclined to issue the following directions which we hereby do:-

- 1) Respondent Nos.3, 4 and 5 shall pursue the complaint made by the petitioners against respondent No.7 under section 15 of the Payment of Wages Act and carry it to its logical conclusion within a period of three months from the date of receipt of a copy of this order;
- 2) Order dated 15.06.2020 is made absolute;
- 3) Respondent No.5 i.e., Deputy Commissioner of Labour, Raigad and Superintendent of Police, Raigad shall carry out joint inspection of the factory premises of respondent No.7 at Khopoli in the district of Raigad within a period of 15 days from the date of receipt of a copy of this order in the presence of representatives of the management and workmen and submit a report about safety measures adopted by respondent No.7 as well as compliance to various government instructions by respondent No.7 in view of COVID-19 situation. They shall also enquire into the incident of blast in the factory premises of respondent No.7 on 14.07.2020 causing the death of two workers and critically injuring one worker, including steps taken by respondent No.7 pursuant thereto. Such report shall be submitted before respondent No.2 who shall thereafter do the

needful in accordance with law.

41. With the above directions, writ petition is disposed of.
42. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(N. R. BORKAR, J.)

(UJJAL BHUYAN, J.)

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